

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 15. DEPARTMENT OF ADMINISTRATION MANAGEMENT SERVICES DIVISION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2427.) The Governor's Office authorized the notice to proceed through the rulemaking process on September 19, 2011.

[R11-186]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R2-15-202 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 41-803(B)
Implementing statute: A.R.S. § 41-803(B)
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 17 A.A.R. 2343, November 18, 2011
- 4. The agency's contact person who can answer questions about the rulemaking:**
Name: Dave Fruehwirth, Fleet Administrator
Rob Smook, ADOA Rules Administrator

Address: Department of Administration – Fleet Management Office
1501 W. Madison St.
Phoenix, AZ 85007

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E-mail: David.Fruehwirth@azdoa.gov
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Web site: <http://fleet.azdoa.gov>
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
The purpose of this rulemaking is to revise rules specifically relating to the use of domicile-to-duty vehicles. R2-15-202 provides specific guidance regarding domicile-to-duty vehicle usage. A review of the procedures and policies associated with this usage led the Department to conclude additional oversight and authorization would be prudent. Amending of this rule provides the Department with another tool in effectively managing ADOA vehicles.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None

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7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

A. Identification of Rule

R2-15-202, Vehicles, Operators and Uses, which is contained in 2 A.A.C. 15, Article 2.

B. Background and Summary

The Department conducted a survey this past summer for domicile-to-duty vehicle usage and concluded a need for additional oversight and authorization for this activity. Under the current rule, authorization by the using agency director is sufficient to allow domicile-to-duty usage. The proposed change to the rule would add the ADOA Director as the final authorizer for this activity. The addition of the ADOA Director will enable external insight into the usage and allow the Department to provide guidance to agencies when this activity is considered.

The Department believes a rulemaking would be the most effective mechanism to properly implement the additional oversight and provide another tool in effectively managing ADOA vehicles.

C. Entities Directly Impacted

All state agencies that utilize ADOA Fleet Management services and utilize the domicile-to-duty provision will be impacted by these changes. The effect of the rule is limited as most agencies don't utilize domicile-to-duty vehicles and in addition, will not impact those agencies exempted by A.R.S. § 41-803(E). There will be minimal impact as this requirement can be incorporated within agency's monthly reporting and billing processes to Fleet Management that are currently in place. Small business and consumers are not impacted by the rule.

D. Potential Costs and Benefits

There will be no change in cost to the agencies for this change.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Dave Fruehwirth, Fleet Administrator
Rob Smook, ADOA Rules Administrator

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Web site: <http://fleet.azdoa.gov>

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be received at the address listed in item 9 for 30 days after the Notice of Proposed Rulemaking is published in the *Register*. An oral proceeding will be scheduled if one is requested, otherwise, the record will be closed at the end of the 30-day period after publication in the *Register*. Should a request for an oral proceeding be received, notice of that proceeding will be published in a future edition of the *Register*.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 15. DEPARTMENT OF ADMINISTRATION ~~MANAGEMENT SERVICES DIVISION~~ GENERAL SERVICES DIVISION

ARTICLE 2. FLEET MANAGEMENT

Section

R2-15-202. Vehicles, Operators, and Uses

ARTICLE 2. FLEET MANAGEMENT

R2-15-202. Vehicles, Operators, and Uses

- A. Any state employee holding a valid Arizona driver's license may be an operator if authorized by the employee's agency.
- B. An operator shall use a Fleet Management vehicle only for state government activities as prescribed under A.R.S. § 38-538.02. Prohibited uses include the following:
1. Domicile-to-duty transportation of a state employee, unless specifically authorized by the employee's agency director and approved by the ADOA Director;
 2. Personal convenience; or
 3. Transportation of family members or friends, or any person not essential to accomplishing the purpose for which the vehicle is dispatched.
- C. Fleet Management shall ensure that a Fleet Management vehicle:
1. Bears a current state license plate in accordance with A.R.S. §§ 28-2351 and 28-2416~~;~~
 2. Bears designations in accordance with A.R.S. § 38-538~~;~~
 3. Is registered with the Arizona Department of Transportation Motor Vehicle Division~~;~~ and
 4. Complies with state emissions laws.